



Montana Fish, Wildlife & Parks

1400 So. 19th
Bozeman, MT 59718

February 11, 1998

TO: Governor's Office, Julie Lapeyre, Room 204, State Capitol, POB 200801, Helena, MT 59620-0801
Environmental Quality Council, Capitol Building, Room 106, POB 201704, Helena, MT 59620
Dept. Environmental Quality, Metcalf Building, POB 200901, Helena, MT 59620-0901
Montana Fish, Wildlife & Parks
Director's Office
Enforcement Division
Legal Unit
Dennis Flath
FWP Commissioners
MT Historical Society, State Historic Preservation Office, POB 201202 Helena, MT 59620-1202
MT State Parks Association, POB 699, Billings, MT 59103
MT State Library, 1515 E. Sixth Ave., POB 201800, Helena, MT 59620
James Jensen, Montana Environmental Information Center, POB 1184, Helena, MT 59624
Janet Ellis, Montana Audubon Council, POB 595, Helena, MT 59624
George Ochenski, POB 689, Helena, MT 59624
Jerry DiMarco, POB 1571, Bozeman, MT 59771
Wildlife Federation, POB 1175, Helena, MT 59624
Wayne Hurst, POB 728, Libby, MT 59923
Glen Hockett, 745 Doane Road, Bozeman, MT 59715
Gallatin County Commissioners, Gallatin County Courthouse, Bozeman, MT 59715

Ladies and Gentlemen:

You recently received a draft Environmental Assessment (E.A.) for the Picture Perfect Zoo & Menagerie. The draft document was changed by the addition of five additional permitting conditions which are discussed in this Decision Notice. Please consider the draft E.A. with the enclosed conditions as the final E.A.

Several negative comments were received on this proposal from neighboring landowners. Most of the comments expressed concerns with health and safety considerations of the zoo and menagerie. The majority of these concerns were withdrawn following a meeting with landowners residing near the proposed facility. Most of the concerns were addressed by adding additional conditions to the permit.

It is, therefore, my decision to approve this application for a zoo and menagerie permit. The permit authorizes the establishment of a zoo and menagerie at 1260 Ludwig Road, south of Belgrade in Gallatin County for a two year period with stipulations.

I find there to be no significant impacts associated with this action and conclude that an Environmental Impact Statement is not needed. The completed Environmental Assessment is the appropriate level of analysis.

Thank you for your interest and involvement.

Sincerely,

Stephen L. Lewis
Stephen L. Lewis
Regional Supervisor

Gallatin

DECISION NOTICE

Picture Perfect Zoo & Menagerie Permit Prepared by: Region 3, Montana Fish, Wildlife & Parks February 11, 1998

Proposal

Montana Fish, Wildlife & Parks proposes to issue a permit to Nikki Morgan to operate the Picture Perfect Zoo and Menagerie at their residence of 1260 Ludwig Lane, Gallatin County, Montana.

Montana Environmental Policy Act (MEPA)

MEPA requires FWP to assess the potential consequences of this proposed action for the human and natural environment. The proposal was detailed in an Environmental Assessment completed by FWP on October 20, 1997. A 15-day comment period ended on November 4, 1997. One meeting was held with neighboring landowners on December 4, 1997 to discuss concerns, take comments and explain the proposal.

Issues Raised in the Environmental Assessment

The Environmental Assessment considered such areas as public safety, welfare of the animals, possible consequences to the natural environment and effects on the local human community.

General Summary of Public Comment

A total of nine individuals commented on this proposal. Eight of these people were nearby neighbors who objected to the issuing of the permit for a variety of reasons including: public safety, violations of covenants, increased traffic in the area, possible flooding, possible attraction of other animals, lack of handling ability of the owners and aesthetic considerations.

One comment was received from the County Health Department expressing concern over disposal of wastes.

Specific Summary of Comments

In light of the other concerns, the Department held a meeting of neighboring landowners on December 4, 1997. The meeting was attended by all persons who had submitted complaints. At that meeting, Nikki Morgan stated that it was her intention to only operate the zoo at this location for a period of time not to exceed two years. This alleviated most of the concerns of the

neighbors who agreed to withdraw their objections with the caveat that the permit would be for two years with stipulations for safety and prohibition of public viewing.

An additional concern of the Department was that the covenants of the subdivision prohibit commercial enterprises. It is the Department's legal opinion that this operation is a commercial enterprise and is, therefore, prohibited by the covenants and that FWP cannot issue any permit for any activity which is prohibited by law. The Department determined that if all landowners who have standing to contest this zoo on the basis of a covenant violation, decline to do so, we will not be the sole objectors to the zoo, based on the covenants.

The Department, therefore, prepared a release for all subdivision members to sign stating that they withdraw their written objections to the zoo and that they do not plan to challenge the zoo as a violation of covenants. All parties who submitted objections or had standing to contest the zoo as a violation of the subdivision covenants agreed to these terms and signed the document. A signed copy of this document is attached as Appendix A.

Permit Conditions:

The following conditions will be required for issuance of the zoo/menagerie permit. Additional conditions 10 through 14 were added to alleviate other expressed public concerns.

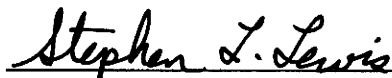
1. All cage doors shall include double locking systems and shall remain locked at all times.
2. Any time the animals are taken off the premises and worked outside of a cage, a firearm or tranquilizer gun shall be ready and available in the event the animals become violent. The owners are responsible for maintaining the appropriate types and suitable quantities of usable tranquilizing drugs.
3. A log shall be kept detailing each date and at what location the animals are taken off premises. The log shall be available for inspection at any reasonable time.
4. Any time one of the animals becomes violent, attacks someone, becomes uncontrollable, exhibits any serious aggressive behavior, or escapes it shall be reported immediately to the local game warden or Regional Headquarters.
5. The Department may revoke permission to use the animals outside of cages any time it believes that public safety may be threatened.
6. Failure to comply with the terms of these conditions or other state laws or regulations regarding zoos and menageries shall, in addition to any criminal penalties, be ground for the revocation of this permit.
7. This permit shall be valid only when the applicant is in compliance with federal regulations regarding the possession of the animals.

8. Liability insurance, naming the Department as an additional insured party, in the amount of \$1,000,000 must be provided and kept in effect as long as the animals are possessed. The policy shall cover the animals on or off premises and the animals are not to be taken to any area where the policy is not in effect. A copy of the policy shall be provided to the Department with the annual license renewal application.
9. The animals shall be caged at all times, including during transport, unless they are being worked with. The animals may be removed from their cages for brief periods of training or professional photographic purposes only. During these periods they must be under the direct control of qualified handlers.
10. All cages will be kept in a sanitary condition in compliance with A.R.M. 12.6.1304. All waste will be scattered in an open field or removed to a licensed landfill.
11. The permit and any renewal of the permit at this location shall expire and be void two years after the date of the original issuance. It shall be nonrenewable after that date.
12. The large carnivores (bear and lion) shall be enclosed with a secondary fence six feet in height. It shall be gated and the gate is to remain locked at all times when the animals are unattended.
13. No more than 20 animals in total may be housed on this property. This shall include zoo and menagerie animals, livestock, wolves, and pets.
14. The zoo shall not permit viewing of the animals by the general public on the premises.

Decision

Based on the findings of the Environmental Assessment, the resolution of the conflicts with the neighboring landowners, and the addition of several conditions to alleviate other possible concerns, it is my decision to issue the permit for a roadside zoo and menagerie for a period of time not to exceed two years from the date of issue.

I find there to be no significant impacts associated with this action and conclude that an Environmental Impact Statement is not needed. The completed E.A. is the appropriate level of analysis.



Stephen L. Lewis
Regional Supervisor

APPENDIX A

TO: Department of Fish, Wildlife & Parks

We, the undersigned are property owners in the subdivision surrounding Ludwig Lane in Gallatin County, Montana. We are under the jurisdiction of the covenants for Certificate of Survey Number 320.

We are aware that Brad and Nikki Morgan have applied for a permit to operate a zoo and menagerie at the residence of Denver Bryan, 1260 Ludwig Lane.

We are aware that such use of this property may be in violation of the covenants governing the use of this property. We do not object to the use of this property as a zoo and menagerie and will not pursue the matter as a violation of the covenants for a period of two years from the date of issue of the permit. We, further, withdraw any other objections we may have submitted for this period of time.

Please print name, address and date.
(Include signature)

Name	Address	Date	Signature
PATRICIA A. MYERS <i>Patricia A. Myers</i>	1345 Ludwig Lane	12-19-97	<i>Patricia A. Myers</i>
LYLE L. MYERS	1345 LUDWIG LANE	12-19-97	<i>Lyle L. Myers</i>
<i>Spencer Taylor Young</i>	1250 Ludwig Lane	12-22-97	<i>Spencer Taylor Young</i>
<i>Ray "Pete" Young</i>	1250 Ludwig Lane	12-22-97	<i>Ray "Pete" Young</i>
<i>Deb Tinklenberg</i>	1303 Ludwig Lane	12-22-97	<i>Debra P. Tinklenberg</i>
<i>David Tinklenberg</i>	1303 Ludwig Lane	12-22-97	<i>David Tinklenberg</i>
IVAN LUDWIG	1211 Ludwig Ln	12-23-97	<i>Ivan Ludwig</i>
KATHY LUDWIG	1211 Ludwig Ln	12-23-97	<i>Kathy Ludwig</i>
Neal J. Dowd	1186 Ludwig Ln.	1/14/98	<i>Neal J. Dowd</i>
<i>David Thompson</i>	8281 Blaine Rd	1/14/98	<i>David Thompson</i>
ROBERT CHRISTIE	1065 Ludwig	1/21/98	<i>Robert Christie</i>
8 SCHWALM	8229 + Ave 82	2-10-98	<i>8229 Schwal</i>